

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 153 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and Sd/-
MR.JUSTICE A.R.DAVE Sd/-

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1. Whether Reporters of Local Papers may be allowed
to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy
of the judgement?

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5 No

COMMISSIONER OF INCOME TAX

Versus

RAMADEVI H. GROVER

Appearance:

MR M.J.THAKORE for MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.R.DAVE

Date of decision: 21/08/98

ORAL JUDGEMENT

[Per R.K.Abichandani, J.]

The applicant has suggested the following
question for a direction on the Income Tax Appellate
Tribunal to forward the statement of case in respect
thereof under the provisions of Section 256 (2) of the

"Whether, on the facts and in the circumstances of the case, the I.T.A.T. was justified in holding that the assessee had agricultural income of Rs.4,49,602/- de hors the facts to the contrary brought out by the A.O. and confirmed by the learned CIT (A) ?"

2. The Assessing Officer did not accept the claim of the assessee that the income of Rs.4,49,602/- in respect of the year in question was her agricultural income. According to the Assessing Officer, the claim appeared to be an exercise on paper and no agricultural income of this magnitude could be earned from the nature of investments made by the assessee for acquiring the land. As regards the vouchers which were produced to show the sales effected of the agricultural produce by the assessee, the Assessing Officer brushed them aside by merely observing that arrangement of such vouchers in the present society may not be very difficult and such vouchers cannot be considered in isolation of other relevant facts. He also brushed aside the certificates of Talati, Sarpanch and Agent of the Land Development Bank on which reliance was placed by the assessee. This order came to be confirmed by the first appellate authority. The Tribunal, however, after taking into account all the relevant aspects of the matter and the material on record, came to a finding that the extract from the village record in Form Nos.7 and 12 showed that the assessee was an occupant and farmer in the years 1987-88, 1988-89 and 1989-90. It was held that it was proved beyond doubt that the assessee had tilling rights and was the occupant of the land leased to her by one V.A.Mohmed. It was also found that the assessee had maintained complete and audited books of accounts in respect of agricultural income and the Assessing Officer had not pointed out any specific defects therein. It was further held that the sales of agricultural produce, that is, cotton and tuvar, were supported by vouchers and there was nothing on record to show that these vouchers were simply procured without actual sales. It was also found that the certificates of Talati, Sarpanch and Agent of the bank on which the assessee relied were vital piece of evidence and could not have been brushed aside merely by observing that such certificates could be procured. For these reasons, the Tribunal found that there was no justification in the action of the lower authorities for estimating agricultural income as Rs.15,000/- only and treating the rest of the amount of Rs.4,35,602/- as income from undisclosed sources. The Tribunal,

accordingly, directed that the entire income of Rs.4,49,602/- should be treated as income from agricultural produce for rate purpose only.

3. In our view, this clearly is a finding of fact and no question of law arises in the matter. The Tribunal was, therefore, right in rejecting the application made by the present petitioner under Section 256 (1) of the Act. The present application is, therefore, rejected. Rule is discharged with no order as to costs.

Sd/-

[KMG Thilake]

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